

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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FREEDOM FROM RELIGION FOUNDATION, INC,

Plaintiff,

v.

Case No.: 08-cv-1105

MANITOWOC COUNTY, WISCONSIN  
BOB ZIEGLEBAUER, Manitowoc County Executive,  
And JEFFREY BEYER, Manitowoc County  
Public Works Director,

Defendants.

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**AMENDED ANSWER AND AFFIRMATIVE DEFENSES**

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Manitowoc County, Bob Ziegelsbauer and Jeffrey Beyer, by their attorneys, Crivello Carlson, S.C., submit the following Amended Answer to the plaintiff's Complaint:

1. Manitowoc County, Bob Ziegelsbauer and Jeffrey Beyer reallege and incorporate by reference their previous answers to paragraphs 1 through 58.
2. Manitowoc County, Bob Ziegelsbauer and Jeffrey Beyer reallege and incorporate the affirmative defenses contained in their previous answer.
3. Manitowoc County, Bob Ziegelsbauer and Jeffrey Beyer allege the following additional affirmative defenses :
  - a. The government must consider the constitutional rights of those who promote and provide temporary seasonal displays with those of the government and those who may view these displays.
  - b. The Establishment Clause does not apply through principles of incorporation under the Fourteenth Amendment. **See *Elk Grove Unified School Dist. v.***

*Newdow*, 542 U.S. 1, 45-46, 159 L. Ed. 2d 98, 124 S. Ct. 2301 (2004) (Thomas, J., opinion concurring in judgment).

WHEREFORE, Manitowoc County, Bob Zieglobauer and Jeffrey Beyer respectfully requests judgment as follows:

- a. for a dismissal of the plaintiff's complaint upon its merits;
- b. for the costs and disbursements of this action;
- c. for reasonable actual attorneys fees pursuant to 42 U.S.C. § 1988;
- d. for such other relief as this court deems just and equitable.

Dated this 27<sup>th</sup> day of March, 2009.

BY: /s Remzy D. Bitar  
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